

88TH CONGRESS
1ST SESSION

H. R. 7353

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1963

MR. FOGARTY introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To require certain standards of nonpersistence of synthetic pesticide chemicals (economic poisons) manufactured in the United States or imported into the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

DEFINITIONS

4 SECTION 1. As used in this Act—

5 (1) The term "person" means an individual, partner-
6 ship, corporation, association, or other form of business
7 enterprise.

8 (2) The term "United States" means the several States,
9 the District of Columbia, the Commonwealth of Puerto Rico,
10 and the possessions of the United States.

1 STANDARDS OF NONPERSISTENCE

2 SEC. 4. (a) The Surgeon General shall on or before the
3 one hundred and eightieth day after the date of enactment
4 of this Act prescribe and publish in the Federal Register
5 standards of nonpersistence for synthetic chemical pesticides,
6 based on the latest scientific and technical knowledge avail-
7 able with respect to the manufacture of synthetic pesticides,
8 which will assure that all synthetic pesticide chemicals
9 manufactured in the United States or imported into the
10 United States after June 30, 1965, will not persist in air,
11 land, and water but will decompose reasonably quickly and
12 completely after use. Such standards shall be promulgated
13 after due consultation with the Secretary of Agriculture.
14 Included with such standards shall be specific methods by
15 which synthetic pesticide chemicals shall be tested by the
16 Surgeon General to determine if they conform to such
17 standards.

18 SEIZURES

19 SEC. 5. (a) Any pesticide which does not conform
20 with standards prescribed pursuant to section 4 when manu-
21 factured, imported, or offered for import into the United
22 States, shall be liable to be proceeded against while such
23 pesticide is being manufactured or when offered for import
24 into the United States, or any time thereafter, on libel of
25 information and condemned in any district court in the

1 United States within the jurisdiction of which the pesticide
2 is found.

3 (b) Such pesticide shall be liable to seizure by process
4 pursuant to the libel, and the procedure in cases under this
5 section shall conform, as nearly as may be, to the procedure
6 in admiralty; except that on demand of either party, any
7 issue of fact joined in any such case shall be tried by jury.

8 When libel for condemnation proceedings under this section,
9 involving the same claimant and the same issues, are pend-
10 ing in two or more jurisdictions, such pending proceedings,
11 upon application of the United States or the claimant sea-
12 sonably made to the court of one such jurisdiction, shall be
13 consolidated for trial by order of such court, and tried in

14 (1) any district selected by the applicant where one of
15 such proceedings is pending; or (2) a district agreed upon
16 by stipulation between the parties. If no order for con-
17 solidation is so made within a reasonable time, the United
18 States or the claimant may apply to the court of one such
19 jurisdiction, and such court (after giving the other party,
20 the claimant, or the United States attorney for such district,
21 reasonable notice and opportunity to be heard) shall by
22 order, unless good cause to the contrary is shown, specify
23 a district of reasonable proximity to the claimant's prin-
24 cipal place of business, in which all such pending proceedings
25 shall be consolidated for trial and tried. Such order of

1 consolidation shall not apply so as to require the removal
2 of any case the date for trial of which has been fixed. The
3 court granting such order shall give prompt notification
4 thereof to the other courts having jurisdiction of the cases
5 covered thereby.

6 (c) Any pesticide condemned under this section shall,
7 after entry of the decree, be disposed of by destruction or sale
8 as the court may, in accordance with the provisions of this
9 section, direct and the proceeds thereof, if sold, less the legal
10 costs and charges, shall be paid into the Treasury of the
11 United States; but such pesticide shall not be sold under
12 such decree contrary to the provisions of this Act or the
13 laws of the jurisdiction in which sold; except that after entry
14 of the decree and upon the payment of the costs of such pro-
15 ceedings and the execution of a good and sufficient bond
16 conditioned that such pesticide shall not be sold or disposed
17 of contrary to the provisions of this Act, the court may by
18 order direct that such pesticide be delivered to the owner
19 thereof to be destroyed or brought into compliance with
20 the provisions of this Act under the supervision of an officer
21 or employee duly designated by the Surgeon General, and
22 the expenses of such supervision shall be paid by the person
23 obtaining release of the pesticide under bond.

24 (d) When a decree of condemnation is entered against

1 the pesticide, court costs and fees, and storage and other
2 proper expenses, shall be awarded against the person, if any,
3 intervening as claimant of the pesticide.

4 (e) In the case of removal for trial of any case as pro-
5 vided by subsection (b) —

6 (1) the clerk of the court from which removal is
7 made shall promptly transmit to the court in which the
8 case is to be tried all records in the case necessary in
9 order that such court may exercise jurisdiction;

10 (2) the court to which such case is removed shall
11 have the powers and be subject to the duties, for pur-
12 poses of such case, which the court from which removal
13 was made would have had, or to which such court would
14 have been subject, if such case had not been removed.

15 INJUNCTIONS

16 SEC. 6. (a) The United States district courts shall have
17 jurisdiction, for cause shown and subject to the provisions
18 of rule 65 (a) and (b) of the Federal Rules of Civil Pro-
19 cedure, to restrain violations of this Act.

20 (b) In any proceeding for criminal contempt for viola-
21 tion of an injunction or restraining order issued under this
22 section, which violation also constitutes a violation of this
23 Act, trial shall be by the court or, upon demand of the ac-
24 cused, by a jury. Such trial shall be conducted in accord-
25 ance with the practice and procedure applicable in the case

1 of proceedings subject to the provisions of rule 42 (b) of
2 the Federal Rules of Criminal Procedure.

3 **STYLE OF ENFORCEMENT PROCEEDINGS—SUBPENAS**

4 **SEC. 7.** All libel or injunction proceedings for the en-
5 forcement, or to restrain violations, of this Act shall be by
6 and in the name of the United States. Subpenas for wit-
7 nesses who are required to attend a court of the United
8 States in any district may run into any other district in any
9 such proceeding.

10 **REGULATIONS**

11 **SEC. 8. (a)** The authority to promulgate regulations
12 for the efficient enforcement of this Act, except as otherwise
13 provided in this section, is hereby vested in the Surgeon
14 General.

15 **(b)** The Secretary of the Treasury, the Secretary of
16 Agriculture, and the Surgeon General shall jointly prescribe
17 regulations for the efficient enforcement of the provisions of
18 section 10, except as otherwise provided therein. Such
19 regulations shall be promulgated in such manner and take
20 effect at such time, after due notice, as the Surgeon General
21 shall determine.

22 **EXAMINATIONS AND INVESTIGATIONS**

23 **SEC. 9. (a)** The Surgeon General is authorized to con-
24 duct examinations, inspections, and investigations for the
25 purposes of this Act through officers and employees of the

1 Public Health Service or through any health officer or em-
2 ployee of any State, or political subdivision thereof, duly
3 commissioned by the Surgeon General.

4 (b) For purposes of enforcement of this Act, officers or
5 employees duly designated by the Surgeon General, upon
6 presenting appropriate credentials and a written notice to the
7 owner, operator, or agent in charge, are authorized (1) to
8 enter, at reasonable times, any factory, warehouse, or estab-
9 lishment in which pesticides are manufactured, processed,
10 packed, or held for introduction into interstate commerce or
11 are held after such introduction, or to enter any vehicle being
12 used to transport or hold such pesticides in interstate com-
13 merce; (2) to inspect, at reasonable times and within rea-
14 sonable limits and in a reasonable manner, such factory,
15 warehouse, establishment, or vehicle, and all pertinent equip-
16 ment, finished and unfinished materials; and (3) to obtain
17 samples of such materials. A separate notice shall be given
18 for each such inspection, but a notice shall not be required for
19 each entry made during the period covered by the inspection.
20 Each such inspection shall be commenced and completed
21 with reasonable promptness.

22 (c) If the officer or employee obtains any sample, prior
23 to leaving the premises, he shall give to the owner, operator,
24 or agent in charge a receipt describing the samples obtained.

1 If an analysis is made of such sample, a copy of the results
2 of such analysis shall be furnished promptly to the owner,
3 operator, or agent in charge.

4 IMPORTS

5 SEC. 10. (a) The Secretary of the Treasury shall deliver
6 to the Surgeon General, upon his request, samples of pesti-
7 cides which are being imported or offered for import into
8 the United States, giving notice thereof to the owner or
9 consignee, who may appear before the Surgeon General
10 and have the right to introduce testimony. If it appears
11 from the examination of such samples or otherwise that such
12 pesticides does not conform to standards prescribed pursuant
13 to section 4, such pesticide shall be refused admission, except
14 as provided in subsection (b) of this section. The Secretary
15 of the Treasury shall cause the destruction of any such
16 pesticide refused admission unless such pesticide is exported,
17 under regulations prescribed by the Secretary of the Treas-
18 ury, within ninety days of the date of notice of such refusal
19 or within such additional time as may be permitted pursuant
20 to such regulations.

21 (b) Pending decision as to the admission of a pesticide
22 being imported or offered for import, the Secretary of the
23 Treasury may authorize delivery of such pesticide to the
24 owner or consignee upon the execution by him of a good

1 and sufficient bond providing for the payment of such liqui-
 2 dated damages in the event of default as may be required
 3 pursuant to regulations of the Secretary of the Treasury.

(3) The term "Surgeon General" means the Surgeon General of the Public Health Service.

(4) The term "pesticide" means any synthetic pesticide chemical registered by the Department of Agriculture.

REGULATION OF PESTICIDES

SEC. 2. The Congress finds that the land, air, and navigable waters of the United States are being irreparably

polluted through the over-use of synthetic pesticides and

geographically, at certain

comparatively short

long periods. The

the further pollution of

of the United States in the

the conservation of all synthetic

pesticides, the United States

these pesticides in the United States

provisions of this Act shall be

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